

Cabco Engineering Company and Local Union No. 476 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Petitioner. Case 1-RC-17480

20 December 1983

DECISION AND CERTIFICATION OF REPRESENTATIVE

**BY CHAIRMAN DOTSON AND MEMBERS
ZIMMERMAN AND HUNTER**

Pursuant to authority granted it by the National Labor Relations Board under Section 3(b) of the National Labor Relations Act, a three-member panel has considered objections and determinative challenges in an election held December 16, 1981,¹ and the Regional Director's report recommending disposition of same. The Board has reviewed the record in light of the exceptions and briefs, and hereby adopts the Regional Director's findings and recommendations.²

¹ The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was 11 for, and 9 against, the Petitioner; there were 2 challenged ballots.

² With the Regional Director's approval, the Employer's objections were withdrawn, as were part of the Petitioner's Objection 1 and its Objection 2. In the absence of exceptions thereto, we adopt, pro forma, the Regional Director's recommendation as to the remainder of the Petitioner's objections.

Relying on *Buckley Southland Oil*, 210 NLRB 1060 (1974), the Employer contends that the Regional Director was obliged to vacate the election and order a rerun once he found that there was no meeting of the minds by the parties about whether two challenged voters were to be included in, or excluded from, the stipulated unit. This contention misapprehends the Board's holding in *Buckley* and is otherwise without merit.

CERTIFICATION OF REPRESENTATIVE

It is hereby certified that a majority of the valid ballots have been cast for Local Union No. 476 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, and that, pursuant to Section 9(a) of the Act, the said labor organization is the exclusive representative of all the employees in the following appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment:

All journeymen pipefitters, refrigeration fitters, and helpers employed by the Employer at its 372 Central Avenue, Pawtucket, Rhode Island location, but excluding all other employees, office clerical employees, professional employees, guards and supervisors as defined in the Act.

In *Buckley*, the dispute between the parties concerned a significant category of employees, with 8 of the 28 employees who voted belonging to a group about whose unit placement there had been no meeting of the minds when the parties executed their stipulation. Since, in a real sense, the dispute in *Buckley* revealed that there had been no meeting of the minds concerning the basic parameters of the bargaining unit, the Board there held that the proper course was to hold a rerun election after the unit's basic parameters were fixed either by a new stipulation or by a unit hearing. Here, by contrast, the dispute between the parties concerns not the basic parameters of the unit, but only the placement of 2 employees in a unit of approximately 22 employees. In such circumstances, it remains our stated policy not to become mired in questions of contractual intent, but to resolve the eligibility issue which the challenged ballots pose by applying traditional unit criteria. This is what the Regional Director did here, correctly in our view.